IN THE

Supreme Court of the United States

OCTOBER TERM, 1948

No. 142

CESARIO CAMPA, ALIAS CESAR CAMPA, *Petitioner*

v.

UNITED STATES OF AMERICA[1]

On Petition for a Writ of Certiorari to the United States Circuit Court of Appeals for the Fifth Circuit

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Petitioner asks for the issuance of a writ of certiorari (Pet. 6) to review the judgment of the Cir-

[1] The record does not disclose the identity of the person in whose custody petitioner is being held, but the petition for a writ of habeas corpus recites that petitioner is imprisoned "at the United States Institute of Correction, or similar name, at Seagoville, Texas, by the Attorney General of the United States and Department of Justice, or others serving under same and taking orders from the same." (R. 1.) It further does not appear on whom the petition for a writ of habeas corpus was served. Accordingly, there is no proper party respondent.

cuit Court of Appeals for the Fifth Circuit, entered May 24, 1948 (R. 45), denying for lack of jurisdiction his petition for an original writ of habeas corpus in that court. Since it is well established that circuit courts of appeals have no original jurisdiction to issue writs of habeas corpus, the decision below was correct and the petition for a writ of certiorari should be denied. *Adams* v. *United States ex rel. McCann,* 317 U. S. 269, 273; *Posey* v. *Dowd,* 134 F. 2d 613 (C. C. A. 7), certiorari denied, 319 U. S. 746; *In re Miller,* 126 F. 2d 826 (C. C. A. 9), certiorari denied, *sub nom. Miller* v. *Duffy,* 316 U. S. 677. Cf. *Brosius* v. *Botkin,* 110 F. 2d 49 (App. D. C.).

Respectfully submitted,

PHILIP B. PERLMAN,
Solicitor General.

August 1948

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